

APPEAL NO. 040567
FILED APRIL 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 29, 2004, with the record closing on February 13, 2004. The hearing officer resolved the disputed issue by deciding that the respondent/cross-appellant's (claimant) compensable injury of _____, extends to and includes a disc bulge, but not a herniation at the C3-4 intervertebral level of her cervical spine. The appellant/cross-respondent (carrier) appealed the determination that the injury extended to and included a disc bulge, arguing that such determination exceeded the scope of the hearing, and also complained that the hearing officer failed to make findings of fact and conclusions of law on the stated issue and seeks to have the decision reformed to reflect that the injury does not include a C3-4 herniated disc. The claimant's response was untimely, but she did cross-appeal the determination that the injury extends to and includes a disc bulge, but not a herniation at the C3-4 intervertebral level of her cervical spine, and seeks reversal. The carrier responded, urging affirmance of the determination that the injury does not include a herniated disc at C3-4.

DECISION

Remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 91017, decided September 25, 1991. The CCH was recorded by audiotape recording and there was no court reporter. The audiotape recording of the hearing is unintelligible, which makes a full and proper review of the record impossible. Accordingly, we reverse and remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Veronica L. Ruberto
Appeals Judge